

NTSB Order No. EA-3676

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 11th day of September, 1992

Petitioners contend that we have applied a new and higher standard of liability than that traditionally applied, in that pilots are now to be held responsible not only for their own and crew errors, but for equipment "vagaries." Petitioners, however, mischaracterize our holding.

We did not change the applicable standard of responsibility, and we certainly have not imposed liability for equipment malfunction. What we have done is state that, where it has not been shown that other duties made reference to altimeters an unreasonable burden, respondents may not rely on an autopilot and avoid liability if that autopilot malfunctions and causes an altitude deviation. This holding reflects the established standard that respondents exhibit "the highest degree of care."

Petitioners also continue to argue that other cockpit duties reasonably lead to reliance on the autopilot for altitude control. Again, however, our reasoning is mischaracterized. We did not hold that "pilots must monitor altitude capture, to the exclusion of all other cockpit functions[.]" Petition at 6. We held that, on this record, petitioners had not shown that their other duties were such that they were unable to monitor such a critical matter as ascending or descending altitude. Indeed, if petitioners had maintained the "constant scan over . . . their altimeters" they appear here to acknowledge is required (Petition at 7), the event that led to this proceeding would not have occurred.¹

Petitioners conclude by requesting that a Board Member or representative "experience an uninitiated altitude display change in a simulator" so as to duplicate the law judge's experience. Petitioners note that this request has also been made in a pending petition for reconsideration of Administrator v. Baughman, NTSB Order EA-3563, served May 28, 1992. For the reasons discussed in our recent denial of that petition (NTSB Order EA-3640, served August 18, 1992), we deny this request as well.

ACCORDINGLY, IT IS ORDERED THAT:

The petition for reconsideration is denied.

VOGT, Chairman, COUGHLIN, Vice Chairman, LAUBER, HART and HAMMERSCHMIDT, Members of the Board, concurred in the above order.

¹Petitioners suggest that the autopilot display change occurred in the last 200 feet, with fewer than 4 seconds to correct the deviation manually. There is no indication in the record that the deviation occurred at that time.